

United States District Court
Southern District of New York

ANTHONY PERKINS,

Petitioner,

- against -

THOMAS LAVALLEY,

Respondent.

11 Civ. 3855 (JGK)

MEMORANDUM OPINION AND
ORDER

JOHN G. KOELTL, District Judge:

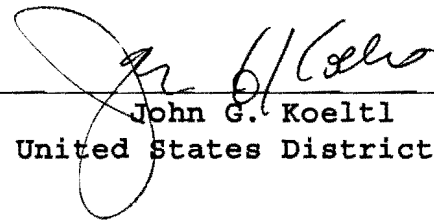
The petitioner has filed a motion requesting that the Court stay his petition for habeas corpus so that he can file a new § 440.10 motion in state court. Staying a petition to allow the exhaustion of a claim in state court is permissible where there is a showing of good cause for having failed to raise the claim, the claim is potentially meritorious, and there is no indication that the petitioner engaged in intentionally dilatory litigation tactics. Rhines v. Weber, 544 U.S. 269, 277-78 (2005). Here, the petitioner has not made such a showing. Indeed, he has not explained the substance of his claims at all, nor has he established that he timely sought the information that he claims he has been waiting for before filing his § 440.10 motion. Accordingly, the petitioner's motion is denied.

The respondent's request for an extension of time to answer the petition for habeas corpus is granted. The respondent's

answer is due October 14, 2011. The petitioner's time to reply
is December 16, 2011.

SO ORDERED.

Dated: New York, New York
August 11, 2011



John G. Koeltl
United States District Judge